

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

April 7, 2008

- C053169 THE PEOPLE v. KIRK (Not For Publication)**
The judgment is affirmed.
RAYE, J.
We Concur: Nicholson, Acting P.J.
Cantil-Sakauye, J.
- C054704 THE PEOPLE v. GRAHAM (Not For Publication)**
Special probation condition No. 8 is modified to state: Not associate with known drug offenders or with persons she knows or reasonably should know is using or possessing controlled substances during the period of probation. As modified, the judgment (order of probation) is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Sims, J.
- C055091 THE PEOPLE v. LaVALLE (Not For Publication)**
The appeal is dismissed.
HULL, J.
We Concur: Blease, Acting P.J.
Nicholson, J.
- C055411 THE PEOPLE v. WYATT (Not For Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C055538 THE PEOPLE v. RAMIREZ (Not For Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.
- C055963 THE PEOPLE v. LOVITT (Not For Publication)**
The judgment is affirmed.
HULL, J.
We Concur: Davis, Acting P.J.
Cantil-Sakauye, J.

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Court Minutes

April 7, 2008 continued

C055268 In re J.T.; THE PEOPLE v. J.T. (Not For Publication)

The appeal is dismissed.

SIMS, Acting P.J.

We Concur: Nicholson, J.
Robie, J.

**C055334 In re SERGIO L.; THE PEOPLE (Not For Publication)
v. SERGIO L.**

The matter is remanded for the juvenile court to comply with the discretionary sentencing procedure set forth in former Welfare and Institutions Code section 731, subdivision (b) and to recalculate the minor's maximum period of confinement. In all other respects, the order of commitment is affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.
Cantil-Sakauye, J.

**C056092 In re G.R. et al.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. C.R.**

The judgment is affirmed as to S.R. and G.R. The appeal as to J.R. is dismissed.

RAYE, J.

We Concur: Sims, Acting P.J.
Davis, J.

April 8, 2008

C051738 THE PEOPLE v. MENDOZA (Not For Publication)

Defendant's conviction for actively participating in a criminal street gang (count V) and the gang enhancement associated with count II are reversed and remanded to the trial court for retrial. In all other respects, the judgment is affirmed.

RAYE, Acting P.J.

We Concur: Morrison, J.
Robie, J.

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Court Minutes

April 8, 2008 continued

- C051927 THE PEOPLE v. HERNANDEZ (Not For Publication)**
Defendant's conviction for attempted manslaughter (count I) and the true finding with respect to the section 667, subdivision (a) enhancement are reversed; retrial is barred. Defendant's conviction for participating in a criminal street gang (count V) and the true finding with respect to the section 186.22, subdivision (b) (1) gang enhancement are reversed and remanded for possible retrial. In all other respects, the judgment is affirmed.
RAYE, Acting P.J.
We Concur: Morrison, J.
Robie, J.
- C052101 THE PEOPLE v. SARGENT (Not For Publication)**
The appeal is dismissed without prejudice to defendant's filing in the trial court a motion for correction of his presentence custody calculations.
BLEASE, Acting P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.
- C052155 THE PEOPLE v. MENDOZA (Not For Publication)**
Defendant's conviction for attempted manslaughter (count I) is reversed; retrial is barred. Defendant's conviction for participating in a criminal street gang (count V) and the true finding with respect to the section 186.22, subdivision (b) (1) gang enhancement are reversed and remanded for possible retrial. In all other respects the judgment is affirmed.
RAYE, Acting P.J.
We Concur: Morrison, J.
Robie, J.
- C052597 THE PEOPLE v. BOMER et al. (Not For Publication)**
Bomer's sentence is modified to a determinate term of 34 years eight months, plus an indeterminate term of 50 years to life, in state prison.
Ceasar's sentence is modified to a determinate term of 53 years eight months, in state prison.
As modified, the judgments are affirmed.
The trial court is directed to prepare amended abstracts of judgment accurately reflecting the sentences imposed by the trial court, as modified on appeal, and to forward the amended abstracts to the Department of Corrections and Rehabilitation.
NICHOLSON, J.
We Concur: Scotland, P.J.
Sims, J.

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Court Minutes

April 8, 2008 continued

- C053681 THE PEOPLE v. GRAGG (Not For Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Sims, Acting P.J.
Morrison, J.
- C055640 THE PEOPLE v. ROBINSON, II (Not For Publication)**
The judgment is modified by reducing defendant's sentence for the battery conviction from four to three years. As modified, the judgment is affirmed. The trial court shall so amend the abstract of judgment and forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
BLEASE, J.
We Concur: Scotland, P.J.
Hull, J.
- C056035 THE PEOPLE v. THRASHER (Not For Publication)**
The judgment is modified to give defendant credit for time served as follows: 184 actual days, plus 92 days of conduct credit, for a total of 276 days of credit. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification and to show that the sentence imposed for identity theft on count twenty-two was 16 months, rather than 16 years. The court is further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
ROBIE, J.
We Concur: Scotland, P.J.
Sims, J.
- C056115 THE PEOPLE v. TITTLE (Not For Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment indicating that defendant was convicted under both subdivisions (a) and (e) (1) of section 273.5 and forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Hull, J.

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Court Minutes

April 8, 2008 continued

- C056532 THE PEOPLE v. THOMASON (Not For Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Blease, Acting P.J.
Hull, J.
- C053874 MCGREW v. UNION BANK OF CALIFORNIA, N.A. et al. (Not For Publication)**
The order on final account and report of receiver is affirmed. Costs on appeal are awarded to respondent Union Bank of California, N.A. and respondent Anchor Group. (Cal. Rules of Court, rule 8.278 (a) (1) .)
CANTIL-SAKAUYE, J.
We Concur: Nicholson, Acting P.J.
Raye, J.
- C054313 CALIFORNIA EARTH CORPS v. STATE LANDS COMMISSION et al.; DEVELOPERS DIVERSIFIED REALTY CORPORATION (Not For Publication)**
The judgment is affirmed. Defendants and real party in interest shall recover their costs on appeal.
RAYE, J.
We Concur: Nicholson, Acting P.J.
Morrison, J.
- C055054 LIU v. PHAM (Not For Publication)**
The judgment is affirmed.
BUTZ, J.
I Concur: Hull, J.
My colleagues correctly conclude the judgment must be affirmed. I write separately only to emphasize why we must affirm what appears on the surface to be an unfair result. ...
Scotland, P.J.

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Court Minutes

April 8, 2008 continued

C056389 **In re B.H.; SACRAMENTO COUNTY** **(Not For Publication)**
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. C.N.

The judgment (order terminating parental rights) is affirmed.

NICHOLSON, J.

We Concur: Blease, Acting P.J.

Hull, J.

C056688 **In re CLOVER M. et al.;** **(Not For Publication)**
SACRAMENTO COUNTY DEPARTMENT
OF HEALTH AND HUMAN SERVICES
v. CRYSTAL W.

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Nicholson, J.

Hull, J.

April 9, 2008

C054555 **THE PEOPLE v. GRAHAM** **(Not For Publication)**

The judgment is affirmed.

SIMS, Acting P.J.

We Concur: Morrison, J.

Butz, J.

C055912 **THE PEOPLE v. DAVIS** **(Not For Publication)**
C056257

The judgment is modified to award defendant 128 days of custody credit.
As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment, including all applicable fines and fees, and to forward a certified copy to the Department of Corrections and Rehabilitation.

ROBIE, J.

We Concur: Scotland, P.J.

Sims, J.

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Court Minutes

April 9, 2008 continued

C056288 THE PEOPLE v. DAVIS (Not For Publication)

The trial court shall prepare a second amended abstract of judgment that corrects the total time imposed for enhancements from four years to one year in item 3. A certified copy of the second amended abstract shall be forwarded to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

BUTZ, J.

We Concur: Raye, Acting P.J.
 Morrison, J.

**C047584 SPENCER v. LASSEN MUNICIPAL (Not For Publication)
C048829 UTILITY DISTRICT**

The appeal No. C047584, the judgment is affirmed as to the denial of legal fees to the plaintiff and the entitlement of LMUD to legal fees, but the matter is remanded to redetermine the general accuracy of the hours claimed from March through November 2003 and specifically for preparing the judgment. Once the total award is corrected, the trial court must then determine the ability of the plaintiff to pay it. the purported separate appeal from the postjudgment order (appeal No. C048829) is dismissed. Neither party shall recover costs on appeal. (Cal. Rules of Court, rule 8.278.)

ROBIE, J.

We Concur: Scotland, P.J.
 Sims, J.

April 10, 2008

C052626 THE PEOPLE v. SCHMIDT (Not For Publication)

The judgment is reversed. ...

Upon finality of the judgment, the trial court shall resentence defendant accordingly and send a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

BUTZ, J.

I Concur: Raye, J.

As I read the majority's disposition, it modifies the conviction for attempted indecent exposure to reflect that is a misdemeanor and affirms that conviction, as modified. I concur in that disposition. As to the reversal of the burglary conviction, I respectfully dissent. ...

Concurring and Dissenting:

Nicholson, J.

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Court Minutes

April 10, 2008 continued

- C053676 THE PEOPLE v. THOMAS (Not For Publication)**
The sentence on count 3 is vacated and the matter remanded to the trial court for resentencing on count 3. In all other respects, the judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Davis, J.
Nicholson, J.
- C053799 THE PEOPLE v. DAVIS (Not For Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
Robie, J.
- C054764 THE PEOPLE v. STEELE (Not For Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
Robie, J.
- C055026 THE PEOPLE v. PRACH (Not For Publication)**
The parole revocation fine imposed pursuant to Penal Code section 1202.45 is ordered stricken. The enhancements imposed on counts 2, 5, and 6 pursuant to Penal Code section 186.22 are ordered stricken. As so modified, the judgment is affirmed. The trial court is ordered to prepare an amended abstract of judgment and forward a copy to the Department of Corrections and Rehabilitation.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Butz, J.
- C055143 THE PEOPLE v. MEZA (Not For Publication)**
The judgment is affirmed.
SIMS, J.
We Concur: Nicholson, J.
Robie, J.

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Court Minutes

April 10, 2008 continued

- C056908 THE PEOPLE v. HOFFMAN-BROWN (Not For Publication)**
The judgment is modified, reducing the number of conduct days to eight for a total of 65 days of presentence custody credit. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.
BUTZ, J.
We Concur: Raye, Acting P.J.
Cantil-Sakauye, J.
- C053033 300 DeHARO STREET INVESTORS v. (Certified For Publication)**
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT
The judgment of dismissal is reversed. Plaintiff shall recover its costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) - (2) .)
SIMS, Acting P.J.
We Concur: Davis, J.
Hull, J.
- C054126 In re ANTHONY B.; THE PEOPLE v. (Not For Publication)**
ANTHONY B.
The dispositional order is affirmed.
ROBIE, J.
We Concur: Blease, Acting P.J.
Morrison, J.
- C055371 In re J.M. et al.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. LOUISE M.
The orders of the juvenile court are affirmed.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Robie, J.
- C056116 In re J.B. et al.; SACRAMENTO COUNTY (Not For Publication)**
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. NATASHA A.
The judgment of disposition is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Sims, J.

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STATE OF CALIFORNIA
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Court Minutes

April 10, 2008 continued

C056231 In re DEVIN B.; SACRAMENTO COUNTY (Not For Publication)
DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. ELISHA B. et al.; LINDA B.

The order of the juvenile court is reversed and the matter is remanded for further proceedings to determine whether DHHS abused its discretion in denying adoptive placement of the minor with appellant based upon appellant's 1997 Penal Code section 273d, subdivision (a) conviction.

BUTZ, J.

We Concur: Davis, Acting P.J.
Raye, J.

C049959 THE PEOPLE v. TOLLIVER et al. (Certified For Publication)
THE COURT:

It is ordered that the opinion filed herein on March 11, 2008, be modified as follows. ...

The petition for rehearing is denied.

THE COURT:

SCOTLAND, P.J.
Nicholson, J.
Morrison, J.

C057363 TAHOE VISTA, LLC v. ROSE
BY THE COURT:

Respondent's motion to dismiss the appeal is granted. The appeal filed on October 03, 2007, is dismissed.

SCOTLAND, P.J.

April 11, 2008

C054404 THE PEOPLE v. HERNANDEZ (Not For Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We Concur: Nicholson, J.
Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

April 11, 2008 continued

- C055470 THE PEOPLE v. LESTER (Not For Publication)**
The trial court is directed to prepare an amended abstract of judgment to reflect that defendant is entitled to 344 days, instead of 343 days, of presentence credits. The trial court judgment is otherwise affirmed. The trial court is further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
NICHOLSON, J.
We Concur: Sims, Acting P.J.
 Robie, J.
- C057193 In re LORNA H.; EL DORADO COUNTY (Not For Publication)**
DEPARTMENT OF HUMAN SERVICES
v. JANETTE F.
The orders of the juvenile court denying appellant's petition for modification and terminating her parental rights are affirmed.
BLEASE, Acting P.J.
We Concur: Nicholson, J.
 HULL, J.